

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID LIONEL CARPENTER,

No. 2:20-cv-0908 WBS KJN P

Petitioner,

ORDER

v.

MARCUS POLLARD, Warden,

Respondent.

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 4, 2021, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. Respondent filed objections to the findings and recommendations. Petitioner filed a reply.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

2       1. The findings and recommendations filed May 4, 2021, are adopted in full;

3       2. Respondent's motion to dismiss (ECF No. 20) is partially granted, in that claims one  
4 through seven and claim twelve are unexhausted;

5       3. Petitioner's motion for stay, pursuant to Rhines v. Weber, 544 U.S. 269 (2005), (ECF  
6 No. 25) is granted;

7       4. The Clerk of Court is directed to administratively close this case;

8       5. Upon the completion of state habeas review, petitioner is directed to file a motion to  
9 lift the stay within 30 days from the date of any decision by the California Supreme Court; and

10       6. Petitioner's failure to file the motion or to properly exhaust his state court remedies  
11 will result in an order lifting the stay of this case and claims one through seven and claim twelve  
12 will be dismissed as unexhausted.

13 Dated: June 11, 2021



14 WILLIAM B. SHUBB  
15 UNITED STATES DISTRICT JUDGE

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